

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA  
BUTTE DIVISION

GLEND A B. BALLOU,  
Plaintiff,

vs.

JO ANNE B. BARNHART,  
Commissioner of Social  
Security,

Defendant.

CV-06-55-BU-CSO

**FINDINGS AND  
RECOMMENDATIONS OF UNITED  
STATES MAGISTRATE JUDGE**

Before the Court is Plaintiff's Application to Proceed Without Prepayment of Fees and Affidavit (*Court's Doc. No. 2*). In her affidavit, Plaintiff reports the following financial information: income from a two-week job in the amount of \$660.04; income in the amount of \$8,733.13 from her 2005 taxes; \$3.00 in interest from her 2005 taxes; \$310 in dividends from her 2005 taxes;<sup>1</sup> \$7,000 in cash or checking or savings accounts; a home valued at \$115,000; \$22,000 in a mutual fund account; and two vehicles valued at \$4,000.

To qualify for *in forma pauperis* status, a civil litigant must demonstrate that he or she "cannot because of his poverty pay or give security for the costs and still be able to provide

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<sup>1</sup> Plaintiff informs the Court that she expects to receive about the same amount of income, interest, and dividends in 2006.

himself and dependents with the necessities of life."

Adkins v. E.I. DuPont de Nemours & Co., 335 U.S. 331, 339 (1948); Bulld v. Pallavicini, 19 F.3d 1439 (9<sup>th</sup> Cir. 1994). In light of the financial information contained in Plaintiff's affidavit, the Court cannot find that she is entitled to proceed *in forma pauperis*. See Sears, Roebuck and Co. v. Charles W. Sears Real Estate, Inc., 865 F.2d 22, 23 (2<sup>nd</sup> Cir. 1988); United States v. Valdes, 300 F.Supp.2d 82 (D.D.C. 2004); Failor v. Califano, 79 F.R.D. 12, 13 (M.D.Pa. 1978).

The denial of a motion to proceed *in forma pauperis* is a final judgment, and a magistrate judge may not enter this final judgment absent consent of the parties. See Tripati v. Rison, 847 F.2d 548 (9<sup>th</sup> Cir. 1988) (citing 298 U.S.C. § 636(c)). Accordingly, the following recommendation is made.

#### **RECOMMENDATION**

Plaintiff's Application to Proceed Without Prepayment of Fees and Affidavit (*Court's Doc. No. 2*) should be **DENIED**. Pursuant to 28 U.S.C. § 636(b)(3), Plaintiff may not file objections to these findings with the district court. See Minetti v. Port of Seattle, 152 F.3d 1113, 1114 (9<sup>th</sup> Cir. 1998).

DONE and DATED this 2<sup>nd</sup> day of August, 2006.

/s/ Carolyn S. Ostby  
Carolyn S. Ostby  
United States Magistrate Judge